

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

**MICHAEL BIDDY
REG. # 42340-074**

PETITIONER

v.

No. 2:12-cv-108-DPM-JJV

**T.C. OUTLAW
Warden, FCI-Forrest City**

RESPONDENT

ORDER

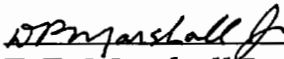
Biddy has filed a habeas petition challenging a Bureau of Prisons' policy that categorically denies an RDAP sentence reduction to inmates serving time for a crime that includes firearm possession. He has objected to Magistrate Judge Joe J. Volpe's recommendation, *Document No. 8*, that his petition be dismissed for failure to exhaust. On *de novo* review, FED. R. CIV. P. 72(b)(3), the Court adopts Judge Volpe's recommendation in full.

Biddy makes a poor case for excusing his failure to exhaust. It appears that he filed his habeas petition some three months after he was denied at Step 2 of the three-step process. *Document No. 6-1, at 11*. And without deciding the merits of the petition, the Court notes that the Bureau supplied reasons for excluding firearms offenders from early-release eligibility when

it revised the early-release rule in 2009. Drug Abuse Treatment Program: Subpart Revision and Clarification and Eligibility of D.C. Code Felony Offenders for Early Release Consideration, 74 Fed. Reg. 1892, 1895 (14 Jan. 2009) (discussing changes to a rule codified at 28 C.F.R. § 550.55).

Recommended disposition, *Document No. 8*, adopted in full. Biddy's petition for a writ of habeas corpus is dismissed without prejudice.

So Ordered.


D.P. Marshall Jr.
United States District Judge

21 August 2012